

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KATHERINE PRUDEN,

Plaintiff,

v.

Case No. 18-cv-13011

Hon. Paul D. Borman

Mag. Judge: Anthony P. Patti

ENHANCED RECOVERY COMPANY, LLC,

Defendant.

JOINT DISCOVERY PLAN

This Proposed Joint Discovery Plan was prepared in anticipation of the Court's scheduling conference, which is to be held on November 20, 2018 at 4:00 p.m.

1. **DATE OF MEETING:** A Rule 26(f) conference was held on November 14, 2018. The following persons participated:

a. Gary D. Nitzkin representing Plaintiff Katherine Pruden.

b. Richard D. Rivera and Scott S. Gallagher representing Defendant Enhanced Recovery Company, LLC ("ERC").

2. **SUMMARY OF THE CASE:**

a. **Plaintiff:**

This case involves allegations that Defendant violated the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq. ("FDCPA"), when attempting to

collect a consumer type debt allegedly owed by Plaintiff in the amount of \$880 (“the alleged debt”).

On April 9, 2018, Plaintiff obtained her Trans Union credit disclosure and noticed Defendant reporting the alleged debt. On or about May 18, 2018, Plaintiff submitted a letter to Defendant disputing the alleged debt. On July 20, 2018, Capital One, a prospective lender, obtained Plaintiff’s Experian credit disclosure. On August 20, 2018, Plaintiff obtained her Experian credit disclosure which showed that Defendant failed or refused to flag the Alleged Debt as disputed, in violation of the FDCPA. Defendant had more than ample time to instruct Experian, Equifax, and Trans Union to flag its tradeline as Disputed

b. Defendant:

On November 24, 2015, ERC’s customer, Sprint, placed an account with it for collection in the name of Katherine Bristol. ERC attempted to collect on this account including by seeking to contact Ms. Bristol, which ERC presumes is another name for Ms. Pruden, by telephone. ERC was never able to contact Ms. Bristol by telephone. Additionally, ERC never received any notice from, or on behalf of, Ms. Bristol, written or verbal, that Ms. Bristol disputed the validity or amount of the account. Immediately upon receiving notice of Ms. Bristol’s claims against ERC, it requested the consumer reporting agencies to delete its reporting of the subject account.

3. **SUBJECT MATTER JURISDICTION:** Jurisdiction of this court arises under 15 U.S.C. § 1692k(d) and 28 U.S.C. §§1331, 1337. This is an action brought against a debt collector for violations of the Fair Debt Collection Practices Act.
4. **RELATIONSHIP WITH OTHER CASES:** The parties are not aware of any related cases.
5. **AMENDMENTS AND JOINDER OF PARTIES:** At this time, the parties do not anticipate any amendments to the pleadings, or the addition of any parties.
6. **ANTICIPATED MOTIONS:** The parties may file dispositive motions pursuant to Fed. R. Civ. P. 12 or 56, if appropriate, after the close of discovery.
7. **CASE EVALUATION:** The parties do not consent to case evaluation, but consent to the referral of this matter to the Magistrate Judge for the limited purpose of a settlement conference, after the close of discovery.
8. **INITIAL DISCLOSURES:** The parties will complete the initial disclosures required under Rule 26(a)(1) by December 28, 2018.
9. **SCOPE OF DISCOVERY:** Discovery should not be conducted in phases and will be needed on all allegations, claims, theories of liability, damages, and affirmative defenses alleged in the Complaint and Answers. The parties anticipate that discovery can be completed by April 26, 2019.
10. **ELECTRONIC DISCOVERY:** The parties have discussed the production of electronically stored information (“ESI”) and do not anticipate any issues. The parties agree that discovery should be produced in a reasonably usable format

(e.g., hard copy or .pdf file). The parties agree that they will discuss production of ESI if discovery of ESI is necessary.

11. **ISSUES REGARDING PRIVILEGE:** The parties have not agreed on any procedure to address claims of privilege or work product immunity for items inadvertently produced during discovery and defer to the federal rules.

12. **DISCOVERY LIMITATIONS:** The parties defer to the discovery limitations set forth in the Federal Rules of Civil Procedure.

13. **CASE MANAGEMENT AND DEADLINES:** The parties propose the following:

- a. Deadline for Parties to Amend Pleadings or Join Parties: December 21, 2018.
- b. Witness Lists Exchanged By: February 22, 2019.
- c. Fact Discovery Cutoff: April 26, 2019.
- d. Deadline for Parties' Disclosure of Expert Witnesses and Reports: March February 22, 2019.
- e. Rebuttal for Parties' Disclosure of Expert Witnesses and Reports: March 22, 2019.
- f. Expert Discovery Cutoff: April 26, 2019.
- g. Motions Challenging Experts filed by: March 8, 2019.
- h. Dispositive Motions Deadline: June 7, 2019.

- i. Motions in Limine (non-expert related) filed by: No later than 7 days before the Final Pretrial Conference.
- j. Final Pretrial Order Due: No later than 14 days prior to the Final Pretrial Conference.
- k. Final Pretrial Conference: The parties defer to the court's availability and scheduling preferences.
- l. Trial Date: The parties defer to the court's availability and scheduling preferences.
- m. Jury or Bench Trial: Plaintiff has requested a Jury Trial, which is not contested by Defendant.

14.OTHER MATTERS: None at this time.

Respectfully submitted,

Dated: November 15, 2018

/s/ Gary D. Nitzkin
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